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Kevin DeNuccio, Sarita James, Jay Leupp,
Merrick D. Okamoto, Said Ouissal, Simeon
Salzman, and Fred Thiel, and Nominal
Defendant Marathon Digital Holdings, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIMBERLY BERNARD, Derivatively on
Behalf of MARATHON DIGITAL
HOLDINGS, INC. (f/k/a MARATHON
PATENT GROUP, INC.),

Plaintiff,

v.

FRED THEIL, GEORGES ANTOUN,
KEVIN DENUCCIO, SARITA JAMES, JAY
LEUPP, SAID OUISSAL, MERRICK D.
OKAMOTO, and SIMEON SALZMAN,

Defendants,

-and-

MARATHON DIGITAL HOLDINGS, INC.
(f/k/a MARATHON PATENT GROUP,
INC.),

Nominal Defendant.

CASE NO.: 2:22-cv-00305-VCF

**STIPULATION TO ACCEPT SERVICE
AND SET UNIFORM DATE FOR
MOTIONS TO DISMISS, INCLUDING
STIPULATION TO EXTEND TIME FOR
PARTY SERVED TO DATE**

(First Request)

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Defendants Fred Thiel¹, Georges Antoun, Kevin DeNuccio, Sarita James, Jay Leupp, Said Ouissal, Merrick D. Okamoto, Simeon Salzman (collectively, “Defendants”), Nominal Defendant Marathon Digital Holdings, Inc. (“Marathon”), and Plaintiff Kimberly Bernard (“Plaintiff”), by and through their respective counsel, and subject to this Court’s approval, agree to (a) waive personal service of the summons and Complaint for Defendants; (b) set a uniform schedule for Defendants and Nominal Defendant Marathon to respond to the Complaint (ECF No. 1); and (c) extend time for Nominal Defendant Marathon, which has been served, to respond to the Complaint until the date Defendants will respond to the Complaint. This is the first request for an extension of time in this action.

1. On February 18, 2022, Plaintiff filed her Complaint;

2. On March 4, 2022, Plaintiff served the summons and Complaint on Nominal Defendant Marathon, and Nominal Defendant Marathon’s response to the Complaint is currently due on March 25, 2022;

3. To date, the summons and Complaint have not been served on any Defendant, but Counsel for Defendants has agreed to accept service on behalf of Defendants and Plaintiff’s counsel has agreed that Defendants and Nominal Defendant Marathon will respond to the Complaint on a uniform schedule on April 4, 2022;

4. Good cause therefore exists to extend Nominal Defendant Marathon’s time to respond to the Complaint from March 25, 2022 to April 4, 2022, so that all responses to the Complaint will be filed on the same date.

5. The parties stipulate and agree that:

- a. The undersigned counsel for Defendants are authorized to and hereby waive service of the summons and Complaint on behalf of Defendants; provided, however, that waiver of service and entry into this stipulation shall not waive or prejudice any, and Defendants expressly preserve all, rights, claims, and defenses, including, but not limited to, all defenses relating to jurisdiction and

¹ Improperly captioned as “Fred Theil.”

venue, except a defense as to the sufficiency of service of the summons and Complaint and the form of the summons;

b. Defendants and Nominal Defendant Marathon will file their responses to the Complaint on or before April 4, 2022.

6. This Stipulation is made in good faith, with good cause, and not for purposes of unduly delaying discovery or trial.

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Dated this 25th day of March 2022.

PISANELLI BICE PLLC

By: /s/ Debra L. Spinelli

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DeNuccio, Sarita James, Jay Leupp, Merrick D.
Okamoto, Said Ouissal, Simeon Salzman, and Fred
Thiel, and Nominal Defendant Marathon Digital
Holdings, Inc.

Dated this 25th day of March 2022.

MATTHEW L. SHARP, LTD.

By: (approved but not signed)²

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Attorneys for Plaintiff Kimberly Bernard

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, based on the parties' stipulation above, Defendants and Nominal Defendant Marathon shall file their responses to the Complaint on or before April 4, 2022.

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: _____

CASE NO. 2:22-cv-00305-VCF

² Plaintiff's counsel Thomas J. McKenna, of Gainey McKenna & Egleston, approved this stipulation as reflected in his March 25, 2022, 11:08 am email, attached hereto as Exhibit A. However, Matthew Sharp, Plaintiff's Nevada counsel is in trial today in the Eighth Judicial District Court, and his office was unable to connect with him before the end of the business day. (*Id.*) Because of the deadline extended via this stipulation, and the fact that the ECF shuts down at 5:00 pm, the parties submit this stipulation with Plaintiff's approval but no e-signature.